UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Wyoming Interstate Company, Ltd. Docket No. RP04-313-000

ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITIONS

(Issued June 25, 2004)

1. On May 28, 2004, Wyoming Interstate Company, Ltd. (WIC) submitted for filing tariff sheets to amend its tariff to make purchases and sales of natural gas for system operations. WIC requests an effective date of June 28, 2004. As discussed below, the proposed tariff sheets are accepted, subject to condition. This order benefits customers because it provides for the sale of excess gas incidental to WIC's operations that can be used to supplement the nation's energy supply.

Proposal

2. WIC proposes to add a new article 33 to its tariff[1] in order to clarify WIC's authority to buy and/or sell gas in order: 1) to maintain system pressure and line pack; 2) to balance fuel quantities; 3) to implement the cash out of imbalances procedures contained in section 2.4 of the GTC; and 4) to perform other operational functions in connection with transportation and other similar services.

3. WIC states that from time to time it is required to make operational purchases or sales of gas to maintain system operations, balance, pressure, and line pack. WIC notes that currently its tariff does not specifically provide for these situations. WIC goes on to point out that prior to Order No. 2004, many pipelines filed for and received waiver of the requirement that transmission and sales personnel function independently when the transmission personnel are buying or selling gas for the types of operations described above.

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[1] Ninth Revised Sheet No. 35 and Second Revised Sheet No. 85A to FERC Gas Tariff, Second Revised Volume No. 2.

Notice, Interventions and Protests

4. Public notice of the filing was issued on June 3, 2004. Interventions and protests were due June 9, 2004, as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2003). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2003), all timely filed motions and motions to intervene out of time filed before the issuance of this order are granted. Indicated Shippers[2] filed a protest. They argue that while it is acceptable for WIC to purchase and sell gas for operational reasons, there must be safeguards to ensure that WIC does not abuse this authority.

5. On June 21, 2004, WIC filed an answer to the protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2003), prohibits an answer to protests, unless otherwise permitted by the decisional authority, and WIC's answer will, therefore, be rejected.

6. Indicated Shippers requests that the Commission: 1) require WIC to make operational purchases and sales in an open, transparent manner that allows any interested party to compete to participate; 2) not allow WIC to rebundle sale and transportation services as part of an operational purchase/sale; 3) give operational purchases and sales lower scheduling priority than firm service; 4) require WIC to clarify under what situations the proposed tariff language would allow WIC to make an operational purchase/sale; 5) require WIC to clarify the treatment of the costs and revenue associated with an operational purchase/sale; and 6) require WIC to adopt objective standards and make operational gas purchases on an ongoing, current basis.

Discussion

7. The Commission finds that WIC's proposal to buy or sell excess gas on its system, with several modifications to the proposed tariff language, is just and reasonable and consistent with Commission policy.[3]

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[2] The Indicated Shippers are BP Energy Company, BP American Production Company, and ChevronTexaco Natural Gas.

[3] See Dominion Transmission, Inc. 106 FERC ¶ 61,029 (2004) (Dominion); Dominion Cove Point LNP, 104 FERC ¶ 61,218 (2003); Columbia Gulf Transmission Co., 100 FERC ¶ 61,344 (2002).

Bidding

8. Indicated Shippers urge that WIC use an open, transparent auction approach when the pipeline wants to do an operational purchase/sale. Indicated Shippers contend that an auction ensures that the pipeline gets the best possible terms for the operational purchase/sale,[4] and that this approach is already used by other pipelines in doing operational purchases/sales.[5] Indicated Shippers contend that WIC has approximately 1,000 affiliated companies that are engaged in a wide variety of businesses,[6] creating the risk that WIC might favor an affiliate when WIC does an operational purchase/sale. If the Commission decides not to require WIC to use an auction to do an operational purchase/sale, Indicated Shippers ask that the Commission at least impose restrictions on affiliate transactions such as a price floor equal to the higher of the actual sales price of the buy index price.

9. In Dominion, the Commission required the use of bidding procedures for the purchase and sale of gas for operational purposes.[7] The Commission found that all parties will have an opportunity to bid on the sale of any excess gas incidental to the pipeline's operations. The Commission also found that posting the gas for sale will provide shippers with the opportunity to compete for those volumes. For these same reasons, the Commission will require WIC to revise article 33 to provide that it will post the excess sales volumes for bid on its electronic bulletin board pursuant to the bidding procedures in its tariff. As a result of the open and transparent manner in which bidding procedures will be conducted, Indicated Shippers' alternative request to impose restrictions on affiliate transactions such as a price floor is unnecessary.

Scheduling

10. Indicated Shippers argue that WIC's proposed operational purchase/sale should have a lower priority than firm service. Indicated Shippers contend that WIC's proposal does not address the scheduling priority of an operational purchase/sale. The Commission agrees with protesters that this should be made explicit in WIC's tariff and we shall require that WIC modify article 33 of its tariff to make this clear.

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[4] Indicated Shippers cite Dominion Transmission, Inc., 106 FERC ¶ 61,029, at 61,102 (2004).

[5] Indicated Shippers cite Gas Daily, March 2, 2000, (Gulf South Pipeline announces auction of excess storage inventory).

[6] Docket No. TS04-111, Order No. 2004 Informational Filing of Colorado Interstate Gas Company (CIG) (filed February 9, 2004). CIG is an affiliate of WIC.

[7] See Dominion Transmission, Inc. 106 FERC ¶ 61,029, at 61,102 (2004).

<u>Specific Circumstances for Purchases/Sales of Incidental Gas</u>

11. Indicated Shippers argue that the proposed tariff language lists specific situations in which WIC could perform an operational purchase or sale of gas. However, WIC also includes a catchall clause that would allow WIC to do an operational purchase or sale "to perform other operational functions of transporter in connection with transportation, storage and other similar services." Indicated Shippers state that to prevent a pipeline from abusing its authority to do operational purchases/sales, the Commission has recognized that a tariff provision that authorizes a pipeline to do operational purchases/sales must specify all of the situations in which the transaction is justified.[8]

12. In <u>Dominion</u>, the Commission found that if the pipeline becomes aware of other sources of gas incidental to its system operations that it wishes to sell, the pipeline will have to file for and receive the appropriate Commission approval to add that source to its FERC tariff.[9] The Commission finds that WIC has filed for and provided sufficient detail as to the specific situations relating to an operational purchase or sale of gas. WIC's purchases and sales pursuant to proposed article 33 of WIC's GT&C, are for limited purposes: to maintain system pressure and line pack; to balance fuel quantities; and to implement cash out of imbalances. As a result, no further change is necessary.

<u>Rebundling Sales and Transportation</u>

13. Indicated Shippers argue that the Commission should follow its policy of barring a pipeline from rebundling transportation and sales service as part of an operational purchase/sale.[10] For example, if WIC transports gas to a delivery point in order to do an operational sale of the gas at that location, the purchaser would not have to pay any transportation costs. Indicated Shippers argue that WIC's shippers pay a 9.9 cents per Dth rate for interruptible transportation service pursuant to Rate Schedule IT and for firm transportation pursuant to Rate Schedule FT stated on a 100% load factor basis. Indicated Shippers conclude that if WIC can transport gas to accommodate an operational sale, this would give WIC an unfair advantage in marketing because the shipper would avoid paying to transport the gas.

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[8] Indicated Shippers cite Dominion Transmission, Inc. 106 FERC ¶ 61,009, at 61,101 (2004). <u>See also</u> Gulf South Pipeline, 99 FERC ¶ 61,149 (2002).

[9] <u>See</u> Dominion Transmission, Inc. 106 FERC ¶ 61,029, at 61,101 (2004).

[10] <u>See</u> Gulf South Pipeline, 99 FERC ¶ 61,149 (2002); Dominion Cove Point LNG, LP, 104 FERC ¶ 61,218, at 61,765 (2003).

14. The Commission's policy is to require a pipeline's operational sales service to be unbundled from its transportation service.[11] Further, the Commission concluded in Order No. 636-B that pipelines must unbundle sales and transportation components of their bundled, city-gate, sales service.[12] The Commission found that one reason for adopting the instant rule was a need to ensure equality of transportation, which is best obtainable when the pipeline makes only unbundle sales. While WIC's proposal to make operational sales of gas is not the type of sales service envisioned in Order No. 636, the Commission will require WIC to unbundle its operational sales from its transportation service to the maximum extent practicable, e.g., excess storage sold off at the storage field. In addition, the Commission will require WIC to charge the same transportation rate for operational purchases/sales that other shippers on its system pay. These requirements should satisfy Indicated Shippers' concerns.

Cost and Revenue Reporting

15. Indicated Shippers argue that the risk of abuse warrants requiring WIC to file an annual report that describes and justifies each of its operational purchases/sales. Indicated Shippers state that the Commission has imposed this reporting requirement on other pipelines.[13] In addition, Indicated Shippers argue that if the Commission allows WIC to flow-through the cost of operational gas purchases, the Commission should require WIC to adopt in its tariff objective standards that will require WIC to make operational gas purchases on an ongoing, current basis.

16. The Commission agrees that it is appropriate for WIC to be required to report for review its operational purchases and sales. In Dominion, the Commission required an annual report to help ensure that the pipeline was not charging its customers for the under-recovery of gas on the one hand while realizing revenue generated from the sale of gas for over-recovery on the other.[14] The Commission also found that the annual filing will provide interested parties with the opportunity to examine the pipeline's sales of excess gas and question the revenues realized from such sales. In Dominion, the Commission required the pipeline to revise its tariff to provide that revenues derived from the sale of gas will be credited to the pipeline's shippers.[15] Accordingly, WIC is

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[11] See Gulf South Pipeline, 99 FERC ¶ 61,149 (2002); Dominion Cove Point LNG, LP, 104 FERC ¶ 61,218, at 61,765 (2003).

[12] See Order No. 636-B, 61 FERC ¶ 61,272, at 61,991-61,992 (1992).

[13] See Dominion Transmission, Inc., 106 FERC ¶ 61,029, at 61,101 (2004).

[14] See Id.

[15] See Id.

required to file to revise its tariff to provide for the filing of an annual report on operational purchases and sales along with a revenue crediting plan. The report should indicate the source of the gas, date of the purchase/sale, volumes, purchase/sale price, costs and revenues from the purchase/sale, and the disposition of the costs and revenues.

The Commission orders:

(A) The tariff sheets are accepted effective June 28, 2004, subject to the conditions of this order.

(B) WIC is directed to file revised tariff sheets within fifteen days of the date of this order, modifying its proposed tariff language as discussed above.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.